

1 KEN ULMAN, \* BEFORE THE  
2 COUNTY EXECUTIVE, PETITIONER \* PLANNING BOARD OF  
3 CB-XX-2007 \* HOWARD COUNTY, MARYLAND

4 \* \* \* \* \*

5 MOTION: *To recommend legislation, with modifications, creating a Design Advisory*  
6 *Panel in Howard County, identifying the types of properties subject to*  
7 *review by the Design Advisory Panel, its membership and the guiding*  
8 *principles for its operation as part of the development review process.*

9 ACTION: *Motion passed: Vote 5 - 0*

10 \* \* \* \* \*

11 **RECOMMENDATION**

12 On August 9, 2007, the Planning Board of Howard County, Maryland, heard public  
13 testimony and considered the petition of Ken Ulman, County Executive, for an amendment to the  
14 Howard County Code to amend and add certain regulations towards the creation of a Howard  
15 County Design Advisory Panel (DAP).

16 The petition, the Department of Planning and Zoning Technical Staff Report and  
17 Recommendation, and the comments of reviewing agencies, were presented to the Board for its  
18 consideration. The Department of Planning and Zoning recommended approval of the petition based  
19 on findings that:

- 20 (1) The proposal is consistent with the goals in *General Plan 2000* as indicated by the  
21 Technical Staff Report for this petition, dated July 26, 2007;  
22 (2) As the County becomes built out and redevelopment occurs, the involvement of design  
23 professionals will bring added benefit to the development process;  
24 (3) age-restricted adult housing (ARAH) projects requiring conditional use approval are  
25 appropriate subjects for DAP review, since they are frequently built in or adjacent to  
26 existing neighborhoods where compatibility and design are critical issues; and  
27 (4) Many citizens and business leaders have expressed support for the creation of a Design  
28 Advisory Panel.

29 The Board received both extensive written and oral testimony via the public meeting process  
30 held on August 9, 2007. There were eleven (11) individuals representing themselves or on behalf of  
31 businesses or community organizations who signed in to give oral and written testimony. The Board  
32 also received and reviewed written testimony from other individuals submitted via email. (See  
33 attached Public Testimony List and written testimony) The Board held two (2) public work-sessions

1 on September 6<sup>th</sup> and 20<sup>th</sup>, 2007, to consider the petition and to review testimony and comments  
2 submitted by the public. The oral and written testimony received by the Board indicated that for the  
3 most part, the concept of creating a Design Advisory Panel was generally supported by those who  
4 provided written and/or oral testimony. However, there were many suggested modifications to the  
5 proposed Council Bill and companion legislation, ZRA 91 pertaining to the panel's purview, its  
6 procedures and potential makeup.

7 Unless the vote is otherwise specifically noted, the Board voted unanimously on the  
8 following recommendations:

9 **A. Purpose: Section 16.1500**

10 The Board supports and agrees with all the stated purposes with the exception of "to enhance  
11 property values". The Board believes that effective land-use planning and zoning will result in  
12 increased property values, however, it should not be a consideration in the review process.  
13 Accordingly, the Board recommends deleting the following language "...and to enhance property  
14 values." in section 16. 1500 (b) (2).

15 **B. Applicability: 16.1501**

16 The Board agrees with Staff's recommendation to initially limit the scope of DAP review to  
17 projects that are located in designated areas or zones. More specifically, the Board supports limiting  
18 the review of plans on "[p]arcels located in the U.S. Route 1 Corridor that are zoned CE, CAC, or  
19 TOD or adjoin the Route 1 Right of Way and parcels on which age-restricted adult housing is to be  
20 constructed pursuant to a grant of a conditional use." Section 16.1501. The Board reviewed the  
21 recommendation by the League of Women Voter's to limit review of properties within the Route 1  
22 Corridor to only parcels fronting Route 1 and immediately adjacent to residential uses. The Board,  
23 after staff's response, agreed that an entire parcel and not only portions of those that front Route 1  
24 should be included. Including the entire property permits greater cohesion of design and  
25 functionality of uses resulting in a better design and would be more consistent with the Route 1  
26 revitalization plan.

27 With respect to other areas, the Board **voted 4 – 1** to exclude Columbia Downtown and the  
28 Route 40 Enhancement Study area from DAP review until after the Master Plan for each is approved  
29 and the success of DAP is firmly established. Accordingly, the majority recommends that the  
30 following language, which appears in several places in the proposed legislation, be deleted:

31 (iii) "[p]arcels located within Columbia Downtown in accordance with section 16.1501 . .  
32 and;

33 (iv) parcels located within the Route 40 enhancement study area in accordance with

1 section 16.1501. ..." (See also Sections: 16.145 B (b) (3) (iii) and (iv), 16.147 (b) (2)  
2 (iii) and (iv), 16.156 (b) (iii) and (iv))

3 This recommendation necessarily includes the deletion of any language or reference to the  
4 adoption or approval of the Columbia Downtown Plan and/or the Route 40 Manual. (See also  
5 Sections: 16.1500 (b) (1) and delete: "the Route 40 Corridor, Columbia's Downtown"; 16.1501 and  
6 delete paragraph's (c) and (d) in their entirety; 16.1503 (f) and delete "Route 40 Manual, Final  
7 adopted Plan for Columbia Downtown")

8 The rationale for eliminating these zones and area from the legislation is based on the lack of  
9 definitive guidelines by which the developer and the panel can use to evaluate a project and the fact  
10 that this is a new process to Howard County. The Board believes that the utility of this process  
11 needs to be tested in areas where the community vision has been established. The Route 1 Corridor  
12 is appropriate because the Route 1 Manual is based on an established plan that reflects the  
13 community vision. Inclusion of Columbia Downtown is problematic for several reasons: the Master  
14 Plan has not been approved; even if it is approved, there is not a consensus that Columbia  
15 Downtown should be even be included as a review area or that it have its own DAP; and the board  
16 was concerned that with the many issues relating to downtown Columbia, the public perception as to  
17 the true impact DAP would have on the New Town zone or the approval or implementation of the  
18 Master Plan may not be fully understood. Essentially, the majority believes it would be more  
19 prudent to not include these areas until such time these concerns can be addressed and the DAP  
20 process be tested.

#### 21 **C. Membership/qualifications: Section 16.1502**

22 The Board supports the recommendation that the panel members be experienced and trained  
23 in one or more of the following areas: architecture, landscape architecture, urban design, and civil  
24 engineering and building construction. Section 16.1500 (c).

25 In response to the several citizens who strongly supported including laypersons on the panel, the  
26 Board views the panel's function as a subsidiary review to the administrative/technical review  
27 process and a part of the internal SRC process. Many citizens spoke in support of including two (2)  
28 citizen laypersons on the panel to bring in the perspectives and insights of those living in the area.  
29 However, several citizens spoke against including laypersons on the panel because there is  
30 already opportunity for citizen input and due to the technical nature of the review, laypersons may  
31 not have the knowledge base needed to "keep up with" and contribute to discussions and  
32 recommendations. Therefore, due to the technical nature of the review, the Board supports including  
33 only highly qualified, professional design experts and not requiring the membership to include a

1 layperson.

2 With regards to whether there should be a residency requirement for panel members, the  
3 Board agreed that appointing professionals who live in Howard County would be beneficial and  
4 preferable; however, did not agree that their residency within the county be a requirement for  
5 membership. It was the Board's opinion that a total ban on professionals who have worked on  
6 projects or who sometimes work in the County would be difficult to enforce and might limit the pool  
7 of applicants too much.

8 **D. Process:**

9 The Board supports the recommendation that public input be allowed by the timely  
10 submission of written comments before the DAP meeting and not by testimony given during the  
11 meeting. The opportunity of written citizen comments/concerns/ideas provides, in the Board's  
12 opinion, sufficient opportunity for citizen involvement without unduly delaying the process.  
13 However, in order to ensure that citizen's ideas and concerns are reviewed and evaluated, the Board  
14 believes that the panel's Rules of Procedure require that the panel acknowledges receipt of and  
15 discusses citizen input during the panel's review. The panel, to win citizen support and confidence,  
16 must engage in a visible review of the citizens' concerns.

17 The Board also recommends that the applicant be required to submit the same drawing that  
18 was presented at the community pre-submission to DAP as part of the review process; however,  
19 additional drawings reflecting changes based on the community's input should also be presented.  
20 The Board is concerned that DAP will delay further an approval process that is already well known  
21 for its length of time from submission to construction. While the likely timeline established by staff  
22 indicates only an additional 30 – 40 days, monitoring of each project's time in the DAP process is  
23 essential in determining if this timeline is accurate.

24 **E. Recommendations: Mandatory vs. Advisory**

25 The Board supports the recommendation to make participation in the DAP review process for  
26 those projects within the designated area mandatory. However, the Board voted 3 – 2 to make the  
27 DAP recommendation be advisory to the applicant and not mandatory.

28 The three members supporting advisory cited the newness of the concept, its untried  
29 application and lack of knowledge on the impact on the process' length as well as the potential affect  
30 on development, the uncertainty of whether DAP Panelists would truly function as unbiased  
31 facilitators; the ambiguity associated with the appeals process for DAP's decisions or the decisions  
32 of the Director of Planning and Zoning; and the unknown costs to the developer of having to comply  
33 with DAP as justification of their position. They recommended that any consideration of making

1 their recommendations mandatory wait until an evaluation on how well the process meet its stated  
2 goals and objectives, how the DAP decisions and the Director's made a difference, what additional  
3 costs were borne and time required to comply has been conducted.

4 The two (2) other members believed that the recommendations needed to be mandatory in order for  
5 their decisions be effective.

6 **F. Other Board Recommendations on Procedure:**

7 The Board also recommends that the following recommendations be considered as part of the  
8 DAP's Rules of Procedures:

- 9 (1) A requirement that DAP members must visit the project site before the meeting;
- 10 (2) That green building standards be included in the panel's review authority in order to  
11 provide consistency with other legislation;
- 12 (3) Adding language permitting
  - 13 (a) The Director of DPZ could act in lieu of DAP after reviewing citizen input, a lack  
14 of quorum prevents DAP from meeting and if there is failure to reschedule for  
15 two meetings, or
  - 16 (b) An automatic approval for the project if time exceeds 30-40 days
- 17 (4) Clearly identify what issues are appeal able, when an appeal can be requested and by  
18 whom;
- 19 (5) Determine if a developer with a conditional use project who desires to appeal a DAP  
20 must do so before or during the conditional use hearing;
- 21 (6) Clarification that County projects are subject to DAP provided the parcels are within  
22 the designated review area;
- 23 (7) The recommendation by the Director of DPZ to the County Executive that two  
24 architects be appointed in order to assure a quorum may be more easily achieved, since  
25 an architect is required to achieve a quorum;
- 26 (8) A method to track related legislations' impact that may require revisions to DAP's  
27 review such as infill requirements;
- 28 (9) Include in the DAP legislation that only new plans or substantially revised plans filed  
29 after the legislation's enactment are subject to DAP review;
- 30 (10) Under guidelines and procedures clarify that harmony with adjacent and surrounding  
31 built environment may also include the vision for the area rather than just the actual  
32 environment;
- 33 (11) Ensure the upgrading of related by-products such as the landscaping manual and

1 parking regulations; and

2 (12) The DAP Executive Secretary be the Community Planner.

3 Finally, the Board also recommends that the County Executive require an evaluation of the  
4 DAP review at least one (1) year after the panel's first meeting and before considering additional  
5 legislation to expand the designated areas and zones under the panel's purview. The evaluation  
6 should determine whether the process has achieved its stated goals and objectives by using a variety  
7 of performance measurements.

8 Mr. Rosenbaum moved to approve with modifications as noted in the recommendation and to  
9 include as an attachment the strike-out, track change version and the sign-up list. Mr. Grabowski  
10 seconded the motion.

11 For the foregoing reasons, the Planning Board of Howard County, Maryland, on this 23<sup>rd</sup>  
12 day of October, 2007, recommends the creation of Design Advisory Panel with the above stated  
13 modifications to the proposed legislation.

16 HOWARD COUNTY PLANNING BOARD

17 Tammy J. Citarallanis /sk  
18 Tammy J. Citarallanis, Chairman

19 David Grabowski /sk  
20 David Grabowski, Vice-Chair

21 Linda A. Dombrowski /sk  
22 Linda A. Dombrowski

23 Gary Rosenbaum /sk  
24 Gary Rosenbaum

25 Ramsey Alexander, Jr. /sk  
26 Ramsey Alexander, Jr.

27  
28 ATTEST:

29 Marsha S. McLaughlin  
30 Marsha S. McLaughlin, Executive Secretary